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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
3 ABERDEEN DIVISION

4 CHRISTOPHER C. DIGGS

5 PLAINTIFF

6 V. CIVIL ACTION NO. 1:15CV186-SA-DAS  
7 THE BURLINGTON NORTHERN AND  
8 SANTA FE RAILWAY COMPANY

9 DEFENDANT

10 DEPOSITION OF CHRISTOPHER DIGGS

11 Taken at the instance of the Defendant at Waide &  
12 Associates, P.A., 332 North Spring Street, Tupelo,  
13 Mississippi 38802, on Thursday, September 8, 2016,  
14 beginning at 10:04 a.m.

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16 NIKKI L. LLOYD, CCR #1870

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24  
25 Job No. CS2360764

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1 APPEARANCES:

2  
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6 Tupelo, Mississippi 38802  
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8 COUNSEL FOR PLAINTIFF

9  
10 R. PEPPER CRUTCHER, JR., Esquire  
11 Balch & Bingham, LLP  
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15 COUNSEL FOR DEFENDANT

1           Q    -- I think I understand correctly that you say  
2        they did this, that is not returning you to active duty,  
3        because of your race.

4           A    Yes, sir.

5           Q    And you also say they did it because of your  
6        disability; is that correct?

7           A    Yes, sir.

8           Q    And we'll get into the specifics of the  
9        disability later.

10           Are there any other bad motives you think  
11        caused BNSF not to grant, so far, your request to return  
12        to active duty?

13           A    No, sir, not that I know of.

14           Q    All right. Now, you're aware, aren't you,  
15        that the doctor at BNSF who is evaluating your request  
16        for active duty is named Dr. Laura Gillis?

17           A    Yes. Yes, sir.

18           Q    All right. Have you ever met her?

19           A    No, sir.

20           Q    Is there anybody else who you believe is  
21        actually making the decision either for or along with  
22        Dr. Gillis?

23           A    Make the decision?

24           Q    To -- either to deem you medically fit or not  
25        deem you medically fit to return to active duty.

1 signature on it or --

2 MR. CRUTCHER: Yes, not -- not his lawyer's,  
3 not somebody else for you.

4 MR. WOODRUFF: Lawyers, doctors --

5 Q (BY MR. CRUTCHER) That you personally, Chris  
6 Diggs, communicating directly, personally to Dr. Gillis.  
7 Am I missing something that you're aware of?

8 A I think -- I'm getting confused, because I  
9 received documentation from BNSF from the medical  
10 department about returning to work.

11 Q Right.

12 A And I sent it back, so I think it was to  
13 Dr. Gillis' office.

14 Q Right.

15 A But I can't remember if it was specifically to  
16 Dr. Gillis.

17 Q Right. That's what I'm -- that's what I'm  
18 interested in, something you addressed to Dr. Gillis  
19 personally.

20 A I can't remember. I just don't recall.

21 Q All right. Behind Tab 5 in your binder, I've  
22 copied a number of communications from Dr. Gillis  
23 addressed personally to you.

24 A Yes.

25 (Exhibit 5 marked for identification.)

1 Q (BY MR. CRUTCHER) Would you look at those  
2 please, and tell me if you know if I missed any. Again,  
3 these are things that she addressed personally to you,  
4 not to your lawyers, not to your physicians.

5 A Yes, sir. I -- I -- I can recall this. This  
6 is what I was talking about.

7 Q Okay. Do you know if I've -- I've left out  
8 any communication, written communications, that  
9 Dr. Gillis addressed personally to you from this  
10 collection here behind Tab 5?

11 A No, sir, not that I know of.

12 Q Now, I think I can cut this next one off.  
13 You're aware that your lawyers have addressed  
14 communications to Dr. Gillis, right?

15 A Yes, sir.

16 Q But I'll bet you couldn't tell me if any stack  
17 of them was all of them, right?

18 A I don't understand.

19 Q Have you seen every one of them or do you  
20 think you've seen every one of them that your lawyers  
21 have sent Dr. Gillis?

22 A Yes, sir.

23 Q You do?

24 A I think I have.

25 Q Okay. Then let's look at Tab 6.

1 Q And you appealed the determination, but you  
2 lost that case for railroad retirement benefits?

3 A Yes, sir.

4 Q And I'm trying to cut through a lot of paper  
5 here. But you recall that the determination in that  
6 Railroad Retirement Board case was that you were  
7 disabled from a job that you had done at BNSF but not  
8 from all employment, correct?

9 A Yes, sir, right.

10 Q So would you look behind Tab 20, please.

11 MR. WOODRUFF: I'm sorry. What exhibit?

12 MR. CRUTCHER: Tab 20.

13 MR. WOODRUFF: 20?

14 (Exhibit 20 marked for identification.)

15 Q (BY MR. CRUTCHER) Uh-huh. Do you recall  
16 having seen this before?

17 A Yes, sir.

18 Q Okay. This is the Railroad Retirement Board  
19 decision that deemed you disabled from BNSF work, but  
20 not all work, correct?

21 A Yes, sir.

22 Q Did you ever apply for Social Security  
23 disability income?

24 A No, sir.

25 Q Okay. Do you know your -- strike that. I'm

1                   surgery?

2                   A        No, I don't -- I hate to -- I don't have the  
3                   exact date.

4                   Q        Do you remember if it was after the surgery  
5                   that you asked Dr. Boles to send a note to BNSF saying  
6                   you could return to work?

7                   A        I think it was after the surgery that I asked  
8                   Dr. Boles to send a note that I could do the job that I  
9                   was doing in Amory, Mississippi.

10                  Q        Okay. Now, look behind Tab 22, please, and  
11                  tell me if you remember getting a letter like this from  
12                  BNSF -- except, obviously, being signed by the sender --  
13                  after you asked Dr. Boles to send that note to BNSF.

14                  A        Yes, sir.

15                  Q        Okay. Had any physicians told you that you  
16                  were medically fit to return to your former job at BNSF  
17                  between July 2010 and July 2014?

18                  MR. WOODRUFF: What year?

19                  (Exhibit 22 marked for identification.)

20                  Q        (BY MR. CRUTCHER) My question is: Had any  
21                  physicians treating you told you that you were medically  
22                  fit to return to your former job at BNSF between  
23                  July 2010 and July 2014?

24                  A        No, sir.

25                  Q        Who is the first physician to tell you that